

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

ANTWUNE JENKINS,

Plaintiff,

v.

ARIEL M. BURKS, et al.,

Defendants.

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Case No. 6:23-cv-95-JDK-KNM

**ORDER ADOPTING THE REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff Antwune Jenkins, a Texas Department of Criminal Justice inmate proceeding pro se, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983. The case was referred to United States Magistrate Judge K. Nicole Mitchell for findings of fact, conclusions of law, and recommendations for disposition.

Before the Court is Defendants Ariel Burks and Timothy Larsen's motion for summary judgment based on Plaintiff's failure to exhaust administrative remedies. Docket No. 28. On July 24, 2024, Judge Mitchell issued a Report recommending that the Court grant the motion and dismiss Plaintiff's claims against these Defendants without prejudice. Docket No. 45. A copy of this Report was sent to Plaintiff. However, no objections have been received.¹

This Court reviews the findings and conclusions of the Magistrate Judge de


¹ In a filing dated July 24, 2024—before he received a copy of the Magistrate Judge's Report—and docketed August 5, 2024, Plaintiff moves for leave to amend his complaint to add Defendant Daryl Eason back to this case. Docket No. 47. The Court previously dismissed Plaintiff's claims against Defendant Eason without prejudice. Docket No. 44. Plaintiff's motion to amend his complaint provides no additional factual allegations that would overcome the previous dismissal. Accordingly, the Court **DENIES** the motion (Docket No. 47).

novo only if a party objects within fourteen days of service of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass’n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Here, Plaintiff did not object in the prescribed period. The Court therefore reviews the Magistrate Judge’s findings for clear error or abuse of discretion and reviews the legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge’s Report are filed, the standard of review is “clearly erroneous, abuse of discretion and contrary to law”).

Having reviewed the Magistrate Judge’s Report and the record in this case, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. Accordingly, the Court hereby **ADOPTS** the Report and Recommendation of the United States Magistrate Judge (Docket No. 45) as the findings of this Court. The Court **GRANTS** Defendants Burks and Larsen’s motion for summary judgment (Docket No. 28) and **DISMISSES** Plaintiff’s claims against Defendants Burks and Larsen without prejudice for failure to exhaust administrative remedies.

So **ORDERED** and **SIGNED** this **25th** day of **September, 2024**.


JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE